

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE  
March 11, 2003 Session

**STATE OF TENNESSEE v. REYNALDO QUINTANILLA**

**Appeal from the Circuit Court for Williamson County**  
**No. II-142-901 Timothy L. Easter, Judge**

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**No. M2002-02440-CCA-R3-CD - Filed May 16, 2003**

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The defendant, Reynaldo Quintanilla, was convicted of driving with a blood alcohol concentration greater than .10 percent. See Tenn. Code Ann. § 55-10-401(a)(2). The trial court imposed a sentence of eleven months, twenty-nine days, all but forty-eight hours suspended. In this appeal of right, he argues that the trial court erred by failing to suppress certain of the evidence acquired by the police and that the evidence was otherwise insufficient to support the conviction. The judgment of the trial court is affirmed.

**Tenn. R. App. P. 3; Judgment of the Trial Court Affirmed**

GARY R. WADE, P.J., delivered the opinion of the court, in which JOE G. RILEY and ALAN E. GLENN, JJ., joined.

Eric L. Davis, Franklin, Tennessee, for the appellant, Reynaldo Quintanilla.

Paul G. Summers, Attorney General & Reporter; Elizabeth B. Marney, Assistant Attorney General; and Georgia Felner, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

The proof offered by the state established that during the early morning hours of March 22, 2001, the defendant was involved in a single-vehicle accident. When police arrived at the scene, they found no driver. Shortly thereafter, a county deputy located the defendant less than a mile away. He was described as “staggering” along the roadside. The defendant, who smelled like alcohol and had slurred speech, admitted to the deputy that he had been drinking and acknowledged ownership of the wrecked car. After failing two sobriety tests, he was arrested and charged with both driving under the influence and driving with a blood alcohol concentration of greater than .10 percent. See Tenn. Code Ann. § 55-10-401(a). The jury acquitted the defendant of driving under the influence but found him guilty of driving with a blood alcohol concentration greater than .10 percent.

# I

Initially, the defendant asserts that the trial court erred by denying his motion to suppress his statements to police officers, the officers' observations of his appearance and conduct, and the results of his blood alcohol testing. He argues that the single-vehicle accident, which did not result in personal injury or property damage to others, and the surrounding circumstances did not establish a proper basis for his arrest.

At the suppression hearing, Tennessee Highway Patrol Officer Richard Earl Cash, called as a defense witness, testified that at approximately 3:15 a.m. on March 22, 2001, he was dispatched to an automobile accident involving personal injury on I-65 at Concorde Road. When he arrived at the scene, firefighters and sheriff's deputies were already present. A wrecked vehicle was off the road. There was no driver. A check of the license tag revealed that it was registered to the defendant. According to Trooper Cash, there was no evidence at the scene suggesting that the accident was alcohol-related. Later, Williamson County Sheriff's Deputy David Clark, who had left to search for the abandoned vehicle's driver, returned to the scene. The defendant was in the back seat of his cruiser. Trooper Cash estimated that the defendant, who was not in handcuffs, waited in the backseat of the cruiser for only "a few minutes" before he was questioned. The trooper recalled that the defendant appeared to be under the influence of alcohol, had cuts and scrapes, and was bleeding from the forehead. He described the car as "totaled," having struck a concrete culvert which tore away the vehicle's undercarriage and caused it to roll.

Trooper Cash stated that after he had advised the defendant of his rights, the defendant admitted that he had been drinking and had not been seriously injured in the accident. According to Trooper Cash, the only complaint made by the defendant was that he was nauseous because he was covered with gasoline; otherwise, he had no physical infirmities. The trooper testified that he administered two field sobriety tests, the one-legged stand and the walk-and-turn, both of which the defendant failed. At that point, he placed the defendant under arrest. A blood test indicated an alcohol concentration of .12 percent.

During cross-examination by the state, Trooper Cash described the defendant's car as having been so badly damaged that the driver could have escaped only through a broken window or from where the undercarriage had been torn away. Based upon the defendant's having admitted that he had been drinking and driving, his appearance, speech, and conduct, and his poor performance on the field sobriety tests, it was Trooper Cash's opinion that there was probable cause to arrest for driving under the influence. The trooper recalled that the defendant, to whom he had explained the Miranda rights a second time after the arrest, had estimated the time of the accident to be 3:00 a.m. He also recalled the defendant's saying that he had been drinking since he got off work at 3:00 p.m., some twelve hours earlier.

The defendant claimed at the suppression hearing that he had left work at 2:00 a.m. and driven in the direction of his residence for between forty-five minutes and an hour when he fell asleep and wrecked his vehicle. He testified that when he awoke, the driver's side of the car was on

the ground and the passenger side was in the air. He explained that he left the vehicle because he could smell gasoline and could hear “some type of liquid.” The defendant stated that he “blindly maneuvered” himself out of the car and then momentarily collapsed due to exhaustion. He testified that because he could smell gas fumes and that because there were no other vehicles on the roadway, he began walking towards his residence. The defendant claimed that he had walked for approximately one hour before he was found by a deputy sheriff. He recalled that when he admitted ownership of the wrecked vehicle, the officer asked him to get in the back seat of the cruiser.

The defendant contended that after he was returned to the accident scene, he waited in the cruiser for fifteen to twenty minutes while law enforcement officers talked to one another. He recalled that eventually a trooper walked to the cruiser and questioned him. The defendant acknowledged telling the trooper that he owned the wrecked vehicle, explaining that he had fallen asleep behind the wheel and admitting that he had been drinking earlier in the day. The defendant maintained that he warned the trooper in advance of sobriety testing that he would have difficulty performing because he was tired from his long walk from the scene.

During cross-examination, the defendant could not recall whether the blue lights on Deputy Clark’s cruiser were activated or precisely what words he and the deputy had exchanged. He acknowledged, however, that he had no recollection of Deputy Clark’s having spoken to him in an intimidating manner or having stated that he was under arrest. The defendant, who was not handcuffed until well after his return to the scene, acknowledged that Trooper Cash had advised him of his Miranda rights before asking any questions.

Deputy David Clark, who had arrived at the accident scene at approximately 3:19 a.m., found no one in the wrecked vehicle. He then drove eastbound on Highway 96 towards Franklin where, on his way to the scene, he had seen a male pedestrian on the shoulder of the road. The deputy testified that he located the defendant less than a mile from the accident scene “staggering” towards Franklin, which was not in the direction of his residence. He recalled that he initially rolled down the passenger window of the cruiser and asked where the defendant was going and whether he was “okay.” He described the defendant’s answer as unintelligible due to slurred speech. According to Deputy Clark, he stepped out of the cruiser and, upon further questioning, learned that the defendant was the owner of the wrecked vehicle. He stated that he asked the defendant to return to the scene and recalled that immediately upon their arrival, he opened the door to the cruiser’s back seat. The officer testified that he did not raise his voice, touch or otherwise restrain the defendant, display his weapon, or inform the defendant that he was under arrest. Deputy Clark testified that he did not converse with the defendant during the drive back to the accident scene. He described the defendant as smelling like alcohol and, in his opinion, publicly intoxicated.

The trial court granted the defendant’s motion to suppress only in part, concluding that Trooper Cash’s initial effort at advising the defendant of his constitutional rights was ineffective. The trial court ordered the exclusion of certain of the defendant’s responses to Trooper Cash’s questioning and specifically found as follows:

Trooper Cash twice advised [d]efendant of his rights pursuant to Miranda. When Trooper Cash first met the [d]efendant . . . the [d]efendant was . . . in custody. He was entitled to the Miranda admonishments. . . . The manner in which Trooper Cash first delivered the Miranda warnings to this [d]efendant left [him] without an appropriate opportunity to voluntarily, knowingly and intelligently waive his Miranda rights. The “very rapid fire admonishment” . . . when viewed from all the surrounding circumstances did not allow the [d]efendant to voluntarily, knowingly and intelligently waive his rights under Miranda. . . . Exhibit 2 (the video tape) clearly evidences the [d]efendant’s lack of opportunity to voluntarily, knowingly and intelligently waive his Miranda rights. . . .

The trial court denied the remainder of the motion, however, finding that the defendant’s initial detention by Deputy Clark was proper:

Deputy Clark’s original detention of the [d]efendant was based on articulable facts that a crime had been committed, was being committed, or was about to be committed. . . . Prior to his . . . arrival at the accident scene, . . . Deputy Clark had observed an individual (who later turned out to be the [d]efendant) walking east on Highway 96 away from the accident scene. Upon approaching the [d]efendant in an unthreatening manner, Deputy Clark immediately noticed that [he] was in need of medical care and asked if he had a need for an ambulance. . . . Based upon the [d]efendant’s condition and his very close [proximity] to the wrecked vehicle, Deputy Clark was justified in detaining the [d]efendant . . . . Given the entire picture, Deputy Clark’s . . . placing the [d]efendant in his patrol car was proper. . . .

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The [d]efendant and Deputy Clark had no conversation after the [d]efendant was placed in the back seat of Deputy Clark’s patrol car. The questioning of the [d]efendant by Deputy Clark occurred while the [d]efendant was still outside of the deputy’s vehicle and before he was placed in custody. The questions asked by Deputy Clark were roadside questioning in nature and asked to obtain information confirming or dispelling Deputy Clark’s suspicions. . . .

In reaching its conclusion, the trial court distinguished the facts of this case from those of State v. Thad Thomas Folds, No. 01C01-9308-CC-00278 (Tenn. Crim. App., at Nashville, Mar. 3, 1995). In Folds, police had found no one at the scene of a single-vehicle accident. After determining that the defendant was the owner of the wrecked vehicle, one of the officers drove to the defendant’s residence. At that time, approximately forty-five minutes after the accident, the defendant explained that he and his wife were attempting to locate a towing service. While the defendant claimed that the officer required his return to the accident scene, the officer contended that he had merely “requested” his accompaniment. At the scene, the defendant admitted to officers, who noticed a strong odor of alcohol, that he had been drinking. He failed two field sobriety tests. Officers then arrested the defendant, who consented to a chemical blood alcohol test. The trial court granted the defendant’s motion to suppress his statements to police and the results of his blood

alcohol test, holding that the arrest was not permitted by Tennessee Code Annotated section 40-7-103(a)(6), which specifies that an officer may arrest without a warrant when the officer has probable cause to believe that a driver has committed an offense under title 55, chapters 8 and 10, and the driver is “[a]t the scene of a traffic accident.” On appeal, this court agreed that the “scene of the accident,” as used in the statute, “does not include [the] situation in which . . . the driver was required to return [to the scene] by law enforcement.” Slip op. at 8.

Here, the trial court determined that because the defendant was in close proximity to the accident scene almost immediately after its occurrence, the rationale of Folds was not applicable:

Deputy Clark’s arrest/custody of the [d]efendant was not at the scene of the traffic accident. However, Deputy Clark had been to the accident scene and observed the wreck. The undisputed evidence at the hearing revealed that the property damage caused at the scene was greater than \$1,000. The [d]efendant’s vehicle was totaled. Deputy Clark located the [d]efendant less than a mile from the accident scene. Given the nearness in time and location of the [d]efendant from the time and place of this accident, the [d]efendant’s admission to Deputy Clark that he was the vehicle’s driver, and his own personal investigation, Deputy Clark had probable cause to believe the [d]efendant had committed an offense under the provisions of title 55, chapter 10 of the Tennessee Code Annotated. . . .

The standard of review applicable to suppression issues is well established. When the trial court makes a finding of facts at the conclusion of a suppression hearing, the facts are accorded the weight of a jury verdict. State v. Stephenson, 878 S.W.2d 530, 544 (Tenn. 1994). The trial court’s findings are binding upon this court unless the evidence in the record preponderates against them. State v. Odom, 928 S.W.2d 18, 23 (Tenn. 1996); see also Stephenson, 878 S.W.2d at 544; State v. Goforth, 678 S.W.2d 477, 479 (Tenn. Crim. App. 1984). Questions of credibility of witnesses, the weight and value of the evidence and resolution of conflicts in evidence are matters entrusted to the trial judge as the trier of fact. The party prevailing in the trial court is entitled to the strongest legitimate view of the evidence adduced at the suppression hearing as well as all reasonable and legitimate inferences that may be drawn from the evidence. Odom, 928 S.W.2d at 23.

An arrest is the “taking, seizing, or detaining of the person of another, either by touching or putting hands on him, or by any act which indicates an intention to take him into custody and subjects the person arrested to the actual control and will of the person making the arrest.” West v. State, 221 Tenn. 178, 184, 425 S.W.2d 602, 605 (1968) (citations omitted). An arrest may occur without formal words so long as there is no freedom of movement. State v. Crutcher, 989 S.W.2d 295, 301-302 (Tenn. 1999). Anytime an officer restrains an individual, the individual has been “seized” for constitutional interpretation purposes. Hughes v. State, 588 S.W.2d 296, 302 (Tenn. 1979). A warrantless seizure is generally presumed to be unreasonable, and thus unconstitutional, unless it was conducted pursuant to one of the narrowly defined exceptions to the warrant requirement. See Jones v. United States, 357 U.S. 493, 499 (1958); Crutcher, 989 S.W.2d at 301-02. “When faced with special law enforcement needs, diminished expectations of privacy, minimal

intrusions, or the like, . . . certain general, or individual, circumstances may render a warrantless . . . seizure reasonable.” Illinois v. McArthur, 531 U.S. 326, 330 (2001).

In this case, the defendant does not attack the constitutionality of his arrest, but instead asserts that it violated Tennessee’s statutory prohibition against warrantless arrests for misdemeanors absent the presence of certain exceptions.<sup>1</sup> Tennessee Code Annotated section 40-7-103, which governs warrantless arrests by police officers, provides in pertinent part as follows:

An officer may, without a warrant, arrest a person:

(1) For a public offense committed or a breach of peace threatened in the officer’s presence; [or]

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(6) At the scene of a traffic accident who is the driver of a vehicle involved in such accident when, based on personal investigation, the officer has probable cause to believe that such person has committed an offense under the provisions of title 55, chapters 8 and 10. The provisions of this subdivision shall not apply to traffic accidents in which no personal injury occurs or property damage is less than one thousand dollars (\$1,000) unless the officer has probable cause to believe that the driver of such vehicle has committed an offense under § 55-10-401[.]

Tenn. Code Ann. § 40-7-103(a)(1), (6); see also Tenn. Code Ann. § 40-7-103(a)(8) (allowing warrantless arrest of driver involved in traffic accident “up to four (4) hours after such driver has been transported to a health care facility, if emergency medical treatment . . . is required” and officer has probable cause to believe that driver has violated Code section 55-10-401). Specifically, the defendant contends that the trial court’s application of Tennessee Code Annotated section 40-7-103(6) was error because he was not “[a]t the scene” of a traffic accident within the meaning of the statute.

In State v. Jashua Shannon Sides, No. E2000-01422-CCA-R3-CD (Tenn. Crim. App., at Knoxville, May 16, 2001), the trial court found that the defendant, who was charged with driving under the influence and leaving the scene of an accident, had been unlawfully arrested and granted the defense motion to suppress. At the hearing, the arresting officer testified that he was dispatched to a single-vehicle automobile accident where the driver of the vehicle was not at the scene. The officer recognized the vehicle as belonging to the defendant and later observed the defendant riding as a passenger past the scene of the accident in a vehicle that was owned and operated by his wife. When the officer stopped the vehicle, the defendant initially denied involvement in the accident, but eventually admitted that he was the driver. The trial court concluded that because the defendant was returned to the scene by his wife, Tennessee Code Annotated section 40-7-103(a)(6) was inapplicable. On appeal, a majority of this court accepted the state’s concession that the defendant’s warrantless arrest for leaving the scene of an accident was not permitted by the statute and rejected

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<sup>1</sup>This statutory limitation on warrantless arrests for misdemeanors is not required by the state or federal constitutions. State v. Bryant, 678 S.W.2d 480, 483 (Tenn. Crim. App. 1984).

the state's argument that the officer had probable cause to arrest the defendant for driving under the influence.

In this case, the defendant was not in or near his vehicle when police arrived; however, he was not far from the crash site. By his own estimation, the accident happened between 2:45 and 3:00 a.m. Deputy Clark testified that he arrived at the scene at 3:19 a.m. According to the defendant, he was unconscious for a period of time before he began walking from his wrecked vehicle. It is unlikely that he traveled far and Deputy Clark estimated that he found the defendant no more than a mile away.

Absent Deputy Clark's observation of the defendant as he walked along the roadway, the holdings in Folds and Sides would suggest that the arrest was not authorized by Code section 40-7-103(6). In Folds, officers did not find the defendant until some forty-five minutes after the accident had occurred. By that time, he had been returned to his residence by his wife. Between 19 and 34 minutes had elapsed between the accident and Deputy Clark's initial discussions with the defendant. In Sides, the defendant was picked up by his wife and driven from the scene. Later, as the investigating officer was completing his report, he noticed the defendant was a passenger in a vehicle being driven by the accident scene.

This case is distinguishable from both Folds and Sides, however, because Deputy Clark could have arrested the defendant for public intoxication as a "public offense committed . . . in the officer's presence." See Tenn. Code Ann. § 40-7-103(1); see also State v. Duer, 616 S.W.2d 614, 615 (Tenn. Crim. App. 1981) (holding that warrantless arrest for misdemeanor driving on a revoked license was not illegal where officer could have arrested the defendant for public drunkenness); State v. Michael G. Waldrum, No. M1999-01924-CCA-R3-CD (Tenn. Crim. App., at Nashville, Dec. 8, 2000) (affirming DUI conviction based on warrantless arrest where officer would have been justified in arresting defendant for public intoxication). In its order on the motion to suppress, the trial court had also found that Deputy Clark had probable cause to believe that the defendant was committing the offense of public intoxication:

Deputy Clark would have been justified in arresting the [d]efendant for the misdemeanor offense of public intoxication, as defined in Tennessee Code Annotated §39-17-310. Based upon his initial assessment of the [d]efendant, Deputy Clark determined that the [d]efendant was under the influence of alcohol. Furthermore, given the [d]efendant's observed condition, the [d]efendant was endangered. Obviously, being on the roadside of Highway 96, the [d]efendant was in a public place. According to the [d]efendant he was "exhausted from his injuries." Deputy Clark testified that the [d]efendant was mumbling and smelled of alcohol. . . . The facts and circumstances were present [under the statute] for an arrest of public intoxication and would have justified a legal arrest for that offense. . . .

"A person commits the offense of public intoxication who appears in a public place under the influence of a controlled substance or any other intoxicating substance to the degree that" the

person “may be endangered.” Tenn. Code Ann. § 39-17-310(a)(1). A “public place” is “a place to which the public or a group of persons has access and includes, but is not limited to, highways.” Tenn. Code Ann. § 39-11-106(a)(29). Here, the defendant was “staggering” along a state highway. He was mumbling incoherently and smelled of alcohol. He had a head injury and admitted to the deputy that he had just been involved in an automobile accident. Deputy Clark had probable cause, therefore, to believe that the defendant was under the influence of an intoxicant to the degree that he was a danger to himself. Because the defendant committed the offense in the deputy’s presence, the arrest was proper pursuant to Tennessee Code Annotated section 40-7-103(a)(1). See Tenn. Code Ann. § 40-7-103(a)(1) (“An officer may, without a warrant, arrest a person . . . [f]or a public offense committed or a breach of the peace threatened in the officer’s presence[.]”). Because the arrest was lawful, the state was entitled to prove the additional circumstances which led to his conviction for driving with a blood alcohol content greater than .10%.

Further, the defendant argues that Deputy Clark should have issued a citation in lieu of arresting him. As support, he cites Tennessee Code Annotated section 40-7-118(b)(1), which provides in pertinent part as follows:

A peace officer who has arrested a person for the commission of a misdemeanor committed in such peace officer's presence, or who has taken custody of a person arrested by a private person for the commission of a misdemeanor, shall issue a citation to such arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate. . . .

Tenn. Code Ann. § 40-7-118(b)(1).

“If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.” Atwater v. City of Lago Vista, 532 U.S. 318, 354 (2001). The statute under which the defendant argues that only a citation was warranted also contains the following provisions:

No citation shall be issued under the provisions of this section if:

(1) The person arrested requires medical examination or medical care, or if such person is unable to care for such person’s own safety;

(2) There is a reasonable likelihood that the offense would continue or resume, or that persons or property would be endangered by the arrested person; [or]

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(7) The person arrested is so intoxicated that such person could be a danger to such person or to others[.]

Tenn. Code Ann. § 40-7-118(c)(6). Under any of those subsections, Deputy Clark had authority to arrest the defendant rather than issue a citation. Thus, the trial court’s ruling on the motion to suppress was proper.



## II

As his second issue, the defendant contends that the evidence was insufficient to establish his guilt of driving with a blood alcohol concentration greater than .10 percent. The state argues otherwise.

On appeal, of course, the state is entitled to the strongest legitimate view of the evidence and all reasonable inferences which might be drawn therefrom. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). The credibility of the witnesses, the weight to be given their testimony, and the reconciliation of conflicts in the proof are matters entrusted to the jury as the trier of fact. Byrge v. State, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978). When the sufficiency of the evidence is challenged, the relevant question is whether, after reviewing the evidence in the light most favorable to the state, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. Tenn. R. App. P. 13(e); State v. Williams, 657 S.W.2d 405, 410 (Tenn. 1983). Questions concerning the credibility of the witnesses, the weight and value of the evidence, as well as all factual issues raised by the evidence are resolved by the trier of fact. Liakas v. State, 199 Tenn. 298, 286 S.W.2d 856, 859 (1956). Because a verdict of guilt against a defendant removes the presumption of innocence and raises a presumption of guilt, the convicted criminal defendant bears the burden of showing that the evidence was legally insufficient to sustain a guilty verdict. State v. Evans, 838 S.W.2d 185, 191 (Tenn. 1992).

The defendant was convicted of violating Tennessee Code Annotated section 55-10-401, which provides in pertinent part as follows:

It is unlawful for any person to drive or to be in physical control of any automobile or other motor driven vehicle on any of the public roads and highways of the state, or on any streets or alleys, or while on the premises of any shopping center, trailer park or any apartment house complex, or any other premises which is generally frequented by the public at large, while:

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The alcohol concentration in such person's blood or breath is ten-hundredths of one percent (.10%) or more.

Tenn. Code Ann. § 55-10-401(a)(2).

At trial, Deputy Clark and Trooper Cash reiterated their suppression hearing testimony. Additionally, Trooper Cash testified that the defendant agreed to submit to a blood alcohol test, which was performed at the Williamson County Medical Center. Special Agent John W. Harrison, a forensic scientist with the Tennessee Bureau of Investigation, testified that the defendant's blood sample contained a blood alcohol concentration of .12 percent. The defendant had admitted to officers that he was driving the wrecked vehicle. In our view, this evidence was sufficient to support the conviction.

Accordingly, the judgment is affirmed.

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GARY R. WADE, PRESIDING JUDGE